



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 1**

**5 Post Office Square, Suite 100**

**Boston, MA 02109-3912**

Via e-mail and First-Class Mail

[GGill-Austern@nutter.com](mailto:GGill-Austern@nutter.com)

October 5, 2017

Gary Gill-Austern, Esq.  
Nutter McClennen & Fish LLC  
155 Seaport Boulevard  
Boston, MA 02210

RE: Aerovox Remediation Pursuant to Massachusetts 21E

Dear Gary:

EPA has had the opportunity to review AVX's June 2017 Phase III submission for the Aerovox Site which was posted on the MassDEP Waste Site public website on June 29, 2017. This letter is to convey to AVX our continued concerns about the preferred alternative, particularly the permeable reactive barrier (PRB) proposed as part of the OU3 remedy, the scheduled completion date of the work in 2020, and to inform you of EPA's plans for work in the Upper Harbor along the Aerovox shoreline in 2018.

AVX proposed a PRB treatment wall as part of its preferred alternative in its August 2016 Phase III submission and again in the revised 2017 Phase III submission. You will likely remember that in meetings attended by AVX, MassDEP and the City of New Bedford, EPA has conveyed our concerns in detail about the use of a PRB to address shallow and deep overburden contaminated groundwater migration, and ISCO to address contaminated bedrock groundwater migration from Aerovox to the NBH Site. This was based predominantly on our lack of confidence in the likelihood of success of this technology to address the contamination at Aerovox given the Site conditions and the nature and state of contaminants present. EPA also expressed our reluctance to carry out the New Bedford Harbor Superfund Site remedy in the Upper Harbor in the vicinity of the Aerovox shoreline which is described in the 1998 Record of Decision, as modified by six Explanations of Significant Differences, until AVX can demonstrate success in achieving source control and management of migration at the Aerovox Site through its 21E remediation.

In addition to the above concerns, the Phase III submission indicates that the existing sheet pile wall, part of the Aerovox Site, is not included in the preferred alternative remedy and that it will be removed when the "final comprehensive response actions are constructed." The Phase III submission does not discuss why the wall must be removed or how the Site will be physically separated from the Harbor Site upon removal. It also does not evaluate the impacts such removal will have on the structural integrity of the material on either side of the wall, the Aerovox Site contamination, or the migration of contamination from the Aerovox Site to the Harbor Site. The sheet pile wall was installed pursuant to a 1982 Administrative Order on Consent entered into with Aerovox, Inc. to address contamination at the Aerovox Site.<sup>1</sup> Given the proximity of the Aerovox Site to the Harbor, we feel compelled to remind you that should your actions cause a release to the New Bedford Harbor Site, EPA may consider such as a new release to the Harbor for which AVX could incur liability.<sup>2</sup>

With our remediation contracts now in place for the Harbor Site, and in light of the continued risks posed by the Harbor contamination, EPA has no choice but to move forward with our cleanup of the remainder of the Upper Harbor at this time. Because of our lack of confidence in the effectiveness and constructability of AVX's preferred alternative and the expected delay that will result from AVX's proposal, EPA will move ahead in 2018 with the placement of an interim sediment cap to temporarily contain contamination which has emanated and continues to be generated from the Aerovox Site. The purpose of the interim cap is to contain on-going releases until such time as they are eliminated by a complete source control and management of migration remedy at the Aerovox Site under the Massachusetts 21E program and in accordance with the federal TSCA program by AVX. After the interim cap is installed, EPA will continue to monitor the situation to ensure the Aerovox Site is properly addressed and to allow the remediation of the area beneath the interim capped area to occur in accordance with the OU1 Record of Decision.

EPA continues to offer our willingness to coordinate the two cleanups in order to achieve the most protective remedies for both the Aerovox Site and the New Bedford Harbor Site.

If you have any technical questions, please contact Dave Lederer at (617) 918-1325; legal

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<sup>1</sup> The maintenance and monitoring of the sheet pile wall was the subject of a 1985 Supplement Administrative Order on Consent with Aerovox, Inc.

<sup>2</sup> EPA has previously notified AVX that it considered sheens that appeared in the Harbor along the Aerovox shoreline to be a release to the Harbor caused by AVX's actions taken during the 21E cleanup of the Aerovox Site.

Gary Gill-Austern, Esq.  
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questions should be directed to me at (617) 918-1888.

Very truly yours,

*Cynthia Catri*

Cynthia Catri  
Senior Enforcement Counsel

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